

UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA  
WINSTON-SALEM DIVISION

In Re: ) CHAPTER 7  
 )  
RALPH EARL CARRICK ) CASE NO. 10-51654  
 )  
 )  
Debtor )

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**MOTION FOR RELIEF FROM THE § 362 AUTOMATIC STAY  
OR, IN THE ALTERNATIVE, ADEQUATE PROTECTION**

NOW COMES the Creditor, Bank of North Carolina, (hereinafter at times referred to as the "Creditor"), through counsel, and respectfully shows unto the Court:

1. This action arises under 11 U.S.C. §362(d) and this Court has jurisdiction pursuant to 28 U.S.C. §1334.

2. On August 30, 2010, the above-named Debtor(s) filed a voluntary Petition for relief under Chapter 7 of Title 11 of the United States Bankruptcy Code. W. Joseph Burns was duly appointed and qualified as Trustee.

3. The Creditor is the holder of a secured claim by virtue of a Promissory Note (hereinafter the "Note") dated March 21, 2007, in the original principal amount of \$150,000.00. A copy of the Note is attached hereto as Exhibit "A" and incorporated herein by reference.

4. The Note is secured by a deed of trust (the "Deed of Trust") constituting a lien on real property owned by the Debtor(s) in Davidson County, North Carolina, being more particularly described in the Deed of Trust (hereinafter the "Collateral") and having the following property address:

Property address: 718 S. Hargrave St., 247 W. 6th St.,  
11 17th Ave., and 202 Raleigh Rd.  
Lexington, North Carolina 27292

A copy of said Deed of Trust is attached hereto as Exhibit "B" and incorporated herein by reference.

5. As of October 1, 2010, the payoff on the Note owed to the Creditor from the Debtor(s) is \$139,389.11, plus interest, and

reasonable attorney's fees for collection as provided in said Note.

6. Good cause exists in this case to modify the automatic stay under §362 for the following reasons:

- a) The Creditor does not have adequate protection of its interest in the Collateral in that inter alia, contractually, the Note is past due approximately 1 months (payments of approximately \$1,265.93 monthly) for a total past due amount of approximately \$1,265.93.
- b) The Debtor(s) have continuously failed to make payments to the Creditor and upon information and belief, the Debtor(s) are unable to cure existing arrearages;
- c) The fair market value of the Collateral in accordance with the Debtors Bankruptcy Schedule is approximately \$199,000.00, copies of which are attached hereto as Exhibit "C" and incorporated herein by reference.

7. If Creditor is not permitted to foreclose its security interest in the Collateral, it will suffer irreparable injury, loss, and damage.

WHEREFORE, the Creditor prays the Court as follows:

1. That the automatic stay, pursuant to 11 U.S.C. §362, and restraining order be modified to permit Creditor, its successors and assigns, to pursue all its rights and remedies with respect to the Collateral described herein, including, without limitation, to allow for any eviction upon completion of any foreclosure;

2. That the Debtor(s) be directed to surrender possession of the Collateral if they have not already done so;

3. That the granting of relief be effective immediately upon entry of the Order.

4. That the Creditor have such other and further relief as the Court deems just.

This the 7 day of November, 2010.

ROBERSON HAWORTH AND REESE, P.L.L.C.

  
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Alan B. Powell, Attorney for  
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CERTIFICATE OF SERVICE

The undersigned, counsel for Creditor, Bank of North Carolina, hereby certifies that a copy of the attached Motion for Relief from Automatic Stay or, in the Alternative, Adequate Protection has been served upon the parties hereto by depositing copies of the same in a depository of the United States Postal Service, first class mail, postage prepaid, addressed to the following:

RALPH EARL CARRICK  
253 W. 6Th Street  
Lexington, NC 27292

JOHN A. MEADOWS  
2596-C Reynolda Rd.  
Winston-Salem, NC 27106

W. JOSEPH BURNS  
Chapter 7 Trustee  
P.O. Box 21433  
Winston-Salem, NC 27120

U.S. BANKRUPTCY COURT  
ADMIN. - MICHAEL WEST  
Post Office Box 1828  
Greensboro, NC 27420-1828

This the 8 day of Nov., 2010.

ROBERSON HAWORTH AND REESE, P.L.L.C.



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